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PATENT
Docket No. 393032022200

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Yoshiki NISHITANI, et al.

Serial No.: 09/758,632

Filing Date: January 10, 2001

For: APPARATUS AND METHOD FOR
DETECTING PERFORMER'S MOTION
TO INTERACTIVELY CONTROL
PERFORMANCE OF MUSIC OR THE
LIKE

Examiner: Marlon Fletcher

Group Art Unit: 2837

**SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98**

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO-1449. Copies of the documents are also submitted herewith. Also enclosed are copies of the Japanese and English translation of the Japanese office action from which these documents were cited. The Examiner is requested to make these documents of record and consider them before payment of the issue fee becomes due.

This Information Disclosure Statement is submitted with a Request for Continued Examination (RCE) and a petition to withdraw issue.

1a-751951

Applicants would appreciate the Examiner initialing and returning the Form PTO-1449, indicating that the information has been considered and made of record herein.

The undersigned hereby certifies that each item contained in this Supplemental Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement.

The information contained in this Supplemental Information Disclosure Statement under 37 C.F.R. § 1.97 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing 393032022200. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: October 7, 2004

Respectfully submitted,

By: _____


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Form PTO-1449 INFORMATION DISCLOSURE CITATION IN AN APPLICATION (Use several sheets if necessary)	Docket Number 393032022200		Application Number 09/758,632
	Applicant Yoshiki NISHITANI, et al.		
	Filing Date January 10, 2001	Group Art Unit 2837	
	Mailing Date October 7, 2004		

U.S. PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Filing Date If Appropriate
	1.	01/04/2000	6,011,210				

FOREIGN PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Country	Class	Subclass	Translation YES NO
	2.	11/14/1995	7-302081	Japan			Abstract
	3.	01/10/1997	9-6357	Japan			Abstract
	4.	02/20/1998	10-049151	Japan			Abstract
	5.	04/14/1998	10-97246	Japan			Abstract
	6.	05/26/2000	2000-148143	Japan			Abstract

OTHER DOCUMENTS

(including author, title, Date, Pertinent Pages, Etc.)

Examiner Initials	Ref. No.	Title

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

(Translation)

Notice of Grounds for Rejection (Office Action)

Mailing Date: September 21, 2004

Re: Patent Application No. P2000-211771
Date of Action: September 10, 2004
Examiner: Michitaka ITABASHI
Applied Article: Section 29 subsection 2 and Section 36

The present application should be rejected for the following grounds. If the applicant wants to argue against the rejection, an argument shall be filed within 60 days after the mailing date of this notice, i. e. by November 20, 2004.

GROUNDS

A. The invention as defined in Claim 1, 2, 4, 5, 7, 8 and 9 of the present application shall not be patented under the provision of Japanese Patent Law, Section 29 subsection 2, because they could have been easily made, prior to the filing of the application, by a person skilled in the art, on the basis of the inventions described in the following publications distributed in this or other country prior to the filing of the application.

Detailed Comments

Citation 1: Japanese Patent Application Laid-Open Publication No. HEI 09-006357
Citation 2: Japanese Patent Application Laid-Open Publication No. HEI 07-302081
Citation 3: Japanese Patent Application Laid-Open Publication No. HEI 10-049151
Citation 4: Japanese Patent Application Laid-Open Publication No. HEI 10-097246
Citation 5: Japanese Patent Application Laid-Open Publication No. 2000-148143

Publication 1 (Citation 1) above discloses an invention comprising the following elements.

A control apparatus comprising:

a plurality of operation units including sensor means for detecting a form of motion or posture of a body, and transmission means for transmitting detected results of said sensor means as operation data; and

performance control means for automatically performing a music piece on the basis of automatic performance data including at least tone pitch data of the

music piece and controlling performance factors of the automatic performance, such as a tempo and tone volume, on the basis of the operation data received via said plurality of operation units.

The above-mentioned performance control means controls the performance factors of one or more or all of a plurality of musical instruments (performance parts) on the basis of the operation data received from the respective operation units.

The above-mentioned plurality of operation units (left and right operation units) include a plurality of sensor means attached to various portions of the body of a person, and the transmission means transmits the detected results of the individual sensor means as separate operation data.

Publication 2 (Citation 2) above discloses an invention comprising the following elements:

detecting gesture operation of a player, and controlling performance factors of one or more or all of a plurality of performance parts on the basis of operation data received from different operation sensors.

Publication 3 (Citation 3) above discloses an invention comprising:

attaching a multiplicity of sensors to a body of a conductor; and controlling a multiplicity of tone parameters.

Performance factors of one or more or all of a plurality of performance parts are controlled, on the basis of operation data received from different operation sensors, in response to gesture operation of the conductor.

The disclosed invention is directed to editing automatic performance data. Data controlled and altered (modified) in accordance with the operation data are recorded, and the thus-recorded data are used for an automatic performance.

(Note: Devices that do not store modified data are not called editing devices; they are just tone control devices for controlling tones during a performance. Further, it is a matter of course that the altered (modified) data are used again for an automatic performance, because the data have been edited.)

Publication 4 (Citation 4) above discloses an invention directed to a tone control device using an impact sensor as sensor means for detecting a form of motion or posture of a body.

Publication 5 (Citation 5) above discloses an invention comprising the following elements.

A device which reads out, at a predetermined tempo, automatic performance data including tone pitches and tone generation timing of individual notes of a music piece, and generates performance guide information indicative of the tone pitches and tone generation timing of the individual notes.

The inventions disclosed in Publication 1 to Publication 5 above are each constructed to detect motion of the body and use the detected results for tone generation control. Therefore, it can not be considered that a particular difficulty would be encountered in combining these inventions to think out the inventions of claims 1, 2, 4, 5, 8 and 9 of the instant application.

Also, the invention of claim 7 of the instant application is nothing but an invention which is constructed by adding a performance guide, as disclosed in Publication 5, to an electronic musical instrument that detects motion of the body and uses the detected results for tone generation control. In the invention of claim 7 of the instant application, no particular relationship can be found between the detection of the body motion and the performance guide, and the structures of these arrangements only contribute to their respective functions; therefore, combining the detection of the body motion and the performance guide is nothing more than a matter of mere design choice.

B. Since the description in the specification and drawings of the present application are defective for the reasons set forth below, the present application does not comply with the requirements specified in the provision of Japanese Patent Law, Section 36, subsection 4 and subsection 6, item 2.

Detailed Comments

(1) In the words "one general operation data" of claim 3, it is not clear what is meant by "one".

Mere combination of a plurality of data does not constitute general operation data although it forms a data set (just forming a data set is a matter of mere design choice).

Do the words "one general operation data" mean processing and arithmetically operating the outputs of all the sensors into one data. In such a case, it follows that the automatic performance is controlled in accordance with one control data and thus it is impossible to control a plurality of performance factors.

(2) Claim 6 includes a phrase "tones of different pitches are assigned to a plurality of operations units, and generation of the corresponding tones of the pitches is controlled on the basis of operation data received from the operation units", but it is not clear what is meant by the "corresponding tones".

The operation data assigned to the operation units, detected/transmitted and received are only data indicative of "tone pitches" that constitute control information. What is controlled by (corresponds to) the control information. There must be something that corresponds to the control information; no tone can be generated without at least tone generation timing information.

(3) As regards claim 9, which substantially cites claim 1, it is not clear whether or not the "posture" can be detected by use of the impact sensor.

Generally, the impact sensor detects only when there occurs an impact. The impact sensor may detect a form of motion producing an impact, but never can detect all forms of motion.

In claim 9, the wording "upper arm, chest, thigh, etc." fails to clearly state their extents, and it is not clear what essential condition is referred to by the wording.

Since the disclosed contents in the instant application are unclear, the inventions of claims 3 and 6 have not been examined for the patentability requirements, such as novelty and inventive step.

At the moment, there appears to be no particular ground of rejection; however, whenever any new ground for rejection is found, a further Office Action informing the new ground for rejection is issued.

Record of Investigation Result of Prior Art References

• Technical Field Investigated: IPC 7th Edition G10H 1/00 - 7/00

• Prior Art References :

Citation 6: Japanese Patent Application Laid-Open Publication No. HEI 11-352963

Citation 7: Japanese Patent Application Laid-Open Publication No. HEI 09-097070

Note that this Record of Investigation Result of Prior Art References in no way constitutes grounds of rejection.